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Oct. 12, 2021

BY ECF

Hon. Richard M. Berman
USDJ-SDNY
Daniel Patrick Moynihan US Courthouse
500 Pearl St.
Courtroom 17B
New York, NY 10007-1312

Re: *US v. Daidone*, 02 CR 1584 (SDNY) (RMB)

Dear Judge Berman:

OVERVIEW

Louis Daidone, 75 and imprisoned on the charges at hand since 2003, has served 18 years of an aggregate life sentence this Court imposed in Jun. 2004. The sentence stems from a judgment convicting Daidone on a five-count indictment – alleging racketeering, racketeering conspiracy, witness tampering murder and dual loan sharking conspiracies – that generated three life and two 20-year terms, all running concurrently. Evidence at Daidone’s two-week jury trial, viewed

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in the government's favor, tied the offense conduct to his asserted participation in the Luchese organized crime family, including purported involvement in a pair of homicides.

Invoking 18 USC § 3582(c)(1)(A)(i) as amended by the First Step Act, Daidone asks the Court to reduce his sentence to time served – for a combination of extraordinary and compelling reasons – to allow him a chance to spend his last years at home with his family.¹ Daidone exhausted administrative remedies by presenting his request to the Warden at USP Allenwood, who denied it in Feb. (Ex. A).²

¹ See *US v. Brooker*, 976 F.3d 228, 237-38 (CA2 2020) (holding that cited provisions authorize this relief). In Apr. 2007, Daidone pleaded guilty per agreement to a separate loan sharking conspiracy carrying a consecutive 51-month sentence, seeming to preclude immediate release if this motion succeeds. See *US v. Caridi, et al. (Daidone)*, 02 CR 1399-NGG-36 (EDNY). Because the offense conduct in the Brooklyn case appears to date to 2002, before Daidone's incarceration on the charges here, the subsequent conviction neither undermines his rehabilitation nor makes him presently dangerous.

² See, e.g., *US v. Carlos Torres*, No. 17 Cr. 44 (RMB), 2021 WL 1687502, at *3 (SDNY Apr. 28, 2021); *US v. Blair*, No. 15 Cr. 288 (RMB), 2021 WL 119248, at *2 (SDNY Jan. 13, 2021); *US v. Hart*, No. 15 cr. 288 (RMB), 2021 WL 82281, at *3 (SDNY Jan. 10, 2021); *US v. Miguel Torres*, No. 16 cr. 500 (RMB), 2021 WL 37690, at *2 (SDNY Jan. 5, 2021); *US v. Tazewell*, No. 07 cr. 1035 (RMB), 2021 WL 21980, at *1-*2 (SDNY Jan. 3, 2021) (all holding this constitutes sufficient exhaustion).

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**EXTRAORDINARY AND COMPELLING REASONS WARRANT
REDUCTION**

**A. Intervening Supreme Court Precedent Impugns the
Conviction Driving Daidone's Sentence**

Count Three of Daidone's indictment, charging the witness tampering murder of Bruno Facciolo, carried a mandatory "minimum" statutory sentence of "life in prison."³ So Daidone's conviction on that count prevented this Court from considering mitigating factors and imposing an individualized sentence under 18 USC § 3553(a). Put differently, it denied Daidone the benefit of *US v. Booker*,⁴ the watershed ruling that made the Sentencing Guidelines advisory, issued while his case was on direct appeal.⁵

Years after Daidone's trial and appeal, however, the Supreme Court handed down an opinion narrowing the scope of witness tampering murder. In 2011's *Fowler v. US*, it held that when "the defendant kills a

³ *US v. Daidone*, 471 F.3d 371, 377 (CA2 2006) (citing 18 USC § 1512(a)(3)(A)).

⁴ 543 U.S. 220 (2005).

⁵ *See Daidone*, 471 F.3d at 377 (denying remand because this Court would have "no discretion" to lower sentence "even after *Booker*" given Count Three's mandatory life "minimum").

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person with intent to prevent communications with law enforcement officers generally” – that is, where the defendant does not have potential communications with federal agents or authorities specifically in mind – “the [g]overnment must show a reasonable likelihood that had, e.g., the victim communicated with law enforcement officers, at least one relevant communication would have been made to a *federal* law enforcement officer.”⁶ Daidone’s jury was not instructed on this requirement.

True, the Second Circuit has qualified *Fowler*’s holding, finding federal communications reasonably likely in cases involving criminal “enterprise[s]” of “interstate” reach.⁷ But Facciolo was killed for suspected cooperation with a *California* investigation into a Luchese related homicide.⁸ And when approached about cooperating *federally* after a Jul. 1990 arrest in this District, Facciola expressly “declined.”⁹ So

⁶ 563 U.S. 668, 677-78 (emphasis supplied).

⁷ *Dhinsa v. Krueger*, 917 F.3d 70, 83 (CA2 2019); see *US v. Veliz*, 800 F.3d 63, 75 (CA2 2015) (concluding that the “ongoing and interstate nature of [defendant’s] offenses” made “federal involvement” likely).

⁸ *Daidone*, 471 F.3d at 373, 376-77; accord Govt. App. Br. at 11-12.

⁹ Govt. App. Br. at 44.

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the record here rebuts any general presumption of likely federal communication attending the Luchese family's status as an interstate criminal enterprise. To the contrary, such a "simply hypothetical" – if not "remote" or "outlandish" – prospect of federal communication no longer passes muster under *Fowler*.¹⁰

It follows that the instructional omission on Count Three was significant, and the evidence on that count arguably deficient. Eschewing remand for discretionary resentencing under newly advisory Guidelines – based on a conviction later rendered legally suspect – presents an extraordinary and compelling circumstance meriting FSA relief.¹¹

¹⁰ 563 U.S. at 678.

¹¹ See *Brooker*, 976 F.3d at 230 (holding that FSA "empowered district courts evaluating motions for compassionate release to consider *any* extraordinary and compelling reason for release that a defendant might raise"); *US v. Gluzman*, No. 7:96-cr-323 (LJL), 2020 WL 4233049, at *19 (SDNY Jul. 23, 2020) (granting convicted murderer compassionate release partly because she received a "lifetime sentence under the then-mandatory Sentencing Guidelines. The sentencing court was not obligated, as district courts now are, to make an individualized assessment based on the facts presented and impose a sentence sufficient, but not greater than necessary to satisfy the purposes of criminal sentencing.") (citations and internal quotation marks omitted), *reconsideration denied*, 2020 WL 6526238 (Nov. 5, 2020).

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B. Other Extraordinary and Compelling Reasons Collectively Support Reduction

Beyond Count Three's retrospective infirmity, a combination of other extraordinary and compelling factors bolsters Daidone's case for relief under the FSA.

1. To begin, his aggregate sentence – three life terms plus 40 years – is exceptionally long.¹²

2. As a statistical matter, Daidone's advanced age of 75 places him among the eldest percentile of the federal prison population.¹³

3. Daidone has served a substantial portion of his exorbitant sentence, having been incarcerated on the present charges

¹² See *Brooker*, 976 F.3d at 237 (rejecting argument that “sentence was too long in the first place *cannot qualify* as an extraordinary and compelling circumstance”) (citation and internal quotation marks omitted) (emphasis *Brooker's*).

¹³ See BOP Statistics: Average Age (verifying that only 2.8% of all federal inmates were over age 65 as of Sept. 18, 2021), available at https://www.bop.gov/about/statistics/statistics_inmate_age.jsphttps://www.bop.gov/about/statistics/statistics_inmate_age.jsp (last visited Sept. 21, 2021).

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since 2003.¹⁴ The time already served – 18 years – suffices for purposes of general deterrence,¹⁵ sending a clear message that crime doesn't pay.

4. The offense conduct is decades old, dating to the 1980s and 90s. And while undeniably serious,¹⁶ it targeted ostensible criminal cohorts rather than ordinary civilians, a cognizable mitigator.¹⁷

5. It appears Daidone has served more time than either of his alleged accomplices on Count Three¹⁸ – even though they actually

¹⁴ Cf. USSG § 1B1.13, p.s., comment. (n.1(B)) (stating that extraordinary and compelling circumstances exist where the defendant is at least 65, exhibits serious age-related deterioration and has served at least 10 years of his prison term).

¹⁵ See 18 USC § 3553(a)(2)(B) (requiring sentences “sufficient, but not greater than necessary,” to “afford adequate deterrence to criminal conduct”); *Gluzman*, 2020 WL 4233049, at *18 (noting Sentencing Commission’s consistent finding that “incarceration lengths of more than 120 months have a deterrent effect”) (citation, internal quotation marks and brackets omitted).

¹⁶ See 18 USC § 3553(a)(2)(A).

¹⁷ Cf. *Gluzman*, 2020 WL 4233049, at *17 (“[T]he circumstances of [defendant’s] crime imply that she was motivated by context-specific factors that no longer exist. Specifically, the record suggests that her decision to murder was one motivated by the desire to kill a particular person. Further, the decision to murder her husband appears to have been driven by anger relating to her husband’s extramarital relationship, position in the divorce negotiations, or behavior as a partner – context-specific factors.”).

¹⁸ *Contra* 18 USC § 3553(a)(6) (instructing district courts to “avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct”).

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killed Facciolo¹⁹ and were implicated in, charged with and convicted of the murder many years earlier. On information and belief, Frank Lastorino, 82, was released from prison in 2008 after serving part of an 18-year sentence imposed, upon a guilty plea, in Sept. 1994.²⁰ On further information and belief, Richard Pagliarulo died in prison in 1999, aged 50, after serving under four years of a life sentence imposed, upon a jury verdict, in Jun. 1995.²¹

6. Enrolling in dozens of wide-ranging self-improvement classes (Ex. B), Daidone has demonstrated thorough rehabilitation²² and compiled an exemplary prison record, with no reported disciplinary infractions during his 18-year confinement (Ex. C).

¹⁹ See Govt. App. Br. at 13-14.

²⁰ See *US v. Lastorino*, No. 90 CR 446-FB-28 (EDNY); BOP Inmate Locator search for Frank Lastorino, <https://www.bop.gov/inmateloc/> (retrieved Sept. 21, 2021).

²¹ See *US v. Pagliarulo*, No. 90 CR 446-FB-22 (EDNY); BOP Inmate Locator search for Richard Pagliarulo, <https://www.bop.gov/inmateloc/> (retrieved Sept. 21, 2021).

²² See *Gluzman*, 2020 WL 4233049, at *17, *19 (granting convicted murderer compassionate release based partly on demonstrated rehabilitation, including her seizing the “significant opportunities for education and character growth” prison provided under 18 USC § 3553(a)(2)(D)); cf. USSG § 1B1.13, p.s., comment. (n.3) (stating that rehabilitation “*by itself*” does not rise to an extraordinary and compelling reason for reduction) (emphasis supplied).

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7. Daidone's health and mobility are declining with age, evidenced by surgeries to implant a pacemaker (Mar. 2021; *see* Ex. D) and replace a knee.²³ The open-heart surgery addressed an atrial fibrillation, described in Ex. D as "persistent," "Urgent" and subject to potential recurrence. And while successfully replaced, the knee has permanently limited flexibility, reportedly due to lack of therapeutic care at his prison facility. In addition, Daidone suffers from severe sciatica that's also required hospitalization and morphine injections, has left him bedridden at times and currently consigns him to a walker.

8. Certifying Daidone's personal if not physical rehabilitation is a batch of supporting letters from his closest relatives, collectively annexed as Ex. E. The "glue" that "holds" the family "together" according to a daughter and his eldest granddaughter, Daidone remains a vital presence, doting grandfather and abiding role model despite a physical separation the COVID-19 pandemic has only

²³ *See ante* n.14.

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compounded, suspending family visits for nearly two years. Daughter Lori Micali elaborates:

Despite my father's current situation, he has somehow managed to establish a bond with my girls as if he was living in the same house with them. The way they adore him, and speak of him, and attach themselves to him on visits is astonishing to see. He doesn't miss speaking to them on a birthday, holiday, graduation, or just a basic weekend soccer or flag football game. He calls to tell them how proud he is of them, roots them on before games, gives them tips on what to do and how to do it, and then calls back to get the scores. No matter how far away he is, he doesn't let anything get in the way of being a grandpa.

Another daughter, Kim Romania, echoes her sister's appraisal. Not a "single holiday, birthday, graduation, dance competition, award ceremony etc. goes by," writes Kim, "without a phone call or letter" from Louis. "He has taught my children that loyalty, honesty and family values are all that matters," she hastens to add.

Daidone's extended absence has taken an especially heavy toll on his enfeebled wife and lifelong soulmate Theresa. While the four-year Air Force Sgt. in Vietnam has been away, Theresa explains, her

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health has drastically deteriorated. I am 75 years old with Lupus, Fibromyalgia, Rheumatoid Arthritis and severe Depression. I am currently awaiting back surgery, but because my body won't be able to fight off Covid, my doctor is prohibiting me from going into the hospital. I can no longer walk, my kidneys are starting to fail from Lupus, and the amount of medication I take is obscene. I have accepted the fact that my time on this earth is extremely limited.

What I have not accepted is that I will be leaving this earth alone, without ever being able to see the love of my life again. ... He has the gentlest heart and even from there does his best to take care of me and my health as best he can. ...

I am begging you to please grant me my last wish. Please let me die in peace knowing that my husband is home where he belongs. I would give anything to just spend a little time with him before I leave this earth. I would rest much easier knowing that he had the opportunity to live just one day at home with his grandchildren. They have been my only reason for living these past 20 years. And I would hope that my husband would be able to experience their love for the little time that he has left as well.

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9. Given reasons 2-4 and 6-8 any risk of reoffending – or consequent need for ongoing incapacitation²⁴ – is minimal.²⁵

10. Reasons 2 and 7-8 weigh in favor of giving Daidone a chance to spend his final years at home with his family.

²⁴ See 18 USC § 3553(a)(2)(C) (requiring sentence “sufficient, but not greater than necessary,” to “protect the public from further crimes of the defendant”).

²⁵ See *Gluzman*, 2020 WL 4233049, at *18 (holding it “well-established” that “older offenders are significantly less likely to recidivate than younger offenders”) (citing Sent. Comm. data).

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CONCLUSION

Extraordinary and compelling reasons for compassion, fully consistent with the 18 USC § 3553(a) factors, emphatically exist in this case. Accordingly, the Court should grant Daidone's motion and reduce his sentence to time served, confiding him to his remaining five-year term.

Respectfully,

A handwritten signature in black ink, appearing to read 'Marc Fernich', with a long horizontal stroke extending to the right.

Marc Fernich

Enc.

cc: Government Counsel (by ECF)

EXHIBIT A

DAIDONE, Louis
Register No.: 39065-053
Unit 3B
Page 1

Inmate Request to Staff Response

This is in response to your Request to Staff, wherein you request a Compassionate Release/Reduction in Sentence (RIS) based upon "extraordinary and compelling circumstances." Specifically, you state you are 75 years old and have served a significant portion of your exceptionally long sentence, with your offense conduct dating back several years ago. Additionally, you claim a Supreme Court decision has disputed the validity of your conviction, you have served more time than the other individuals who were sentenced for the same offense, have a minimal risk to reoffend, and have rehabilitated yourself. Lastly, you state your medical conditions warrant consideration based on the COVID-19 pandemic and wish to spend the remaining years of your life at home with your family.

In accordance with Program Statement 5050.50, Compassionate Release/Reduction in Sentence: "New Law" Elderly Inmates must be 70 years or older and have served 30 years or more of their term of imprisonment. Despite being 74 years old, you have not served more than 30 years of your term of imprisonment.

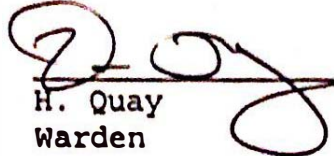
In regards to your request for compassionate release based on your medical conditions, your request does not meet the criteria set forth in Program Statement 5050.50, Compassionate Release/Reduction in Sentence. A medical review determined you have not been diagnosed with a terminal, incurable disease with a life expectancy of eighteen months or less, you are able to care for your daily needs, and you are not confined to a bed or wheelchair for greater than fifty percent of your waking hours.

While I appreciate and understand the issues at hand in regards to your claim that a Supreme Court decision has disputed the validity of your conviction, you have served more time than the other individuals who were sentenced for the same offense, have a minimal risk to reoffend, and have rehabilitated yourself, your request does not meet the requirements as set forth in policy. In accordance with Program Statement 5050.50, Compassionate Release/Reduction in Sentence, you do not meet the requisite criteria under extraordinary or compelling circumstances. The Bureau of Prisons does not have the authority, through its compassionate release/reduction in sentence procedures, to reduce an inmate's term of imprisonment as a result of a court ruling which is favorable for your case, your perception of an unequal sentence, having a minimal to reoffend, or that your imprisonment has achieved its aims due to you being rehabilitated.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you, like all of us, have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence.

Accordingly, your request for Compassionate Release/Reduction in Sentence has been denied. If you are dissatisfied with this response, you may appeal this decision through the Administrative Remedy Process.

2-23-21
Date



H. Quay
Warden

EXHIBIT B

205ALPGH
PAGE 001INMATE EDUCATION DATA
TRANSCRIPT04-15-2021
14:37:54REGISTER NO: 39065-053
FORMAT.....: TRANSCRIPTNAME...: DAIDONE
RSP OF: ALP-ALLENWOOD USP

FUNC: PRT

----- EDUCATION INFORMATION -----

FACIL ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
ALP ESL HAS	ENGLISH PROFICIENT	09-04-1992 1357	CURRENT
ALP GED HAS	COMPLETED GED OR HS DIPLOMA	03-25-1992 0001	CURRENT

----- EDUCATION COURSES -----

SUB-FACL	DESCRIPTION	START DATE	STOP DATE	EVNT	AC	LV	HRS
ALP	ARTICULAR & MUSCULAR SYSTEM	04-04-2021	CURRENT				
ALP	RHU ANIMAL ANATOMY 13:DIGESTN	03-11-2021	CURRENT				
ALP	RHU ANIMAL ANATOMY 14:URINARY	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 1:BANK ON IT	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 10:OWN HOME	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 11:FIN RECOVER	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 2:BORROWING	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 3:CHECKING	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 4:\$ MATTERS	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 6:KEEP SAFE	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 7:CREDIT	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 8:CHARGE IT	03-11-2021	CURRENT				
ALP	RHU FDIC \$ SMART 9:LOAN	03-11-2021	CURRENT				
ALP	RHU EARLY NORTH AMERICA	02-16-2021	CURRENT				
ALP	THE CARDIOVASCULAR AND THE LYMP	03-06-2021	03-27-2021	P	C	P	20
ALP	RHU ACE US CONSTITUTION	02-22-2021	02-26-2021	P	C	P	3
ALP	RHU ENHANCING YOUR VOCABULARY1	02-22-2021	02-26-2021	P	C	P	3
ALP	RHU HISPANIC AMERICANS	02-16-2021	02-26-2021	P	C	P	3
ALP	RHU FAMOUS MALE SPORTS STARS	02-08-2021	02-26-2021	P	C	P	3
ALP	RHU EXPLORING GEOMETRY	02-08-2021	02-26-2021	P	C	P	3
ALP	RHU AMERICAN-INDIAN WARS	01-07-2021	02-26-2021	P	C	P	3
ALP	RHU AFRICAN-AMERICAN HISTORY	01-07-2021	02-26-2021	P	C	P	3
ALP	RHU ACE GENDER EQUALITY	11-02-2020	01-29-2021	P	C	P	3
ALP	RHU ACE CLIMATE CHANGE COURSE	10-07-2020	01-29-2021	P	C	P	3
ALP	RHU ANIMAL ANATOMY 10:CIRCULAT	10-15-2020	12-28-2020	P	C	P	3
ALP	RHU ANIMAL ANATOMY 9:HEART	10-15-2020	12-28-2020	P	C	P	3
ALP	RHU ACE HISTORY MANIFEST DEST	09-17-2020	10-30-2020	P	C	P	3
ALP	RHU ACE GUIDE TO ONLINE SAFETY	06-29-2020	10-30-2020	P	C	P	3
ALP	RHU RESUME WRITING	06-04-2020	10-30-2020	P	C	P	3
ALP	SKELETAL SYSTEM	10-10-2020	10-31-2020	P	C	P	20
ALP	RHU OUR SOLAR SYSTEM	05-14-2020	09-30-2020	P	C	P	3
ALP	RHU EXPLORING EUROPE	05-14-2020	09-30-2020	P	C	P	3
ALP	TISSUES&INTEGUMENTARY	08-30-2020	09-19-2020	P	C	P	20
ALP	RHU ASVAB CAREER EXPLORATION	07-27-2020	08-31-2020	P	C	P	3
ALP	RHU ANIMAL ANATOMY 2:CLASSIFY	08-11-2020	08-31-2020	P	C	P	3
ALP	RHU ANIMAL ANATOMY 1:CHEMICAL	08-11-2020	08-31-2020	P	C	P	3
ALP	HUMAN BODY & CHEM	08-06-2020	08-22-2020	P	C	P	20
ALP	RHU EMAIL BASICS	07-13-2020	07-30-2020	P	C	P	3
ALP	MUSCULAR FLEXIBILITY & COMPRE	07-05-2020	07-26-2020	P	C	P	20
ALP	RHU PASS THE US CITZNSHP TEST?	06-10-2020	07-15-2020	P	C	P	3

G0002

MORE PAGES TO FOLLOW . . .

ALPGH *
PAGE 002 OF 002 *INMATE EDUCATION DATA
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* 14:37:54REGISTER NO: 39065-053
FORMAT.....: TRANSCRIPTNAME...: DAIDONE
RSP OF: ALP-ALLENWOOD USP

FUNC: PRT

----- EDUCATION COURSES -----								
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ALP	RHU START A SMALL BUSINESS	05-28-2020	06-16-2020	P	C	P	3	
ALP	STRESS MANAGEMENT	05-16-2020	06-06-2020	P	C	P	20	
ALP	ACE WORLD WAR 2 HISTORY IN RHU	05-21-2020	06-02-2020	P	C	P	3	
ALP	RHU WORLD WAR 1	05-21-2020	06-02-2020	P	C	P	3	
ALP	ACE EARTH SCIENCE FOR RHU'S	05-07-2020	05-27-2020	P	C	P	3	
ALP	RHU MANY FACES OF AMERICAN REV	05-07-2020	05-22-2020	P	C	P	3	
ALP	NUTRITION AND BODY COMP	04-25-2020	05-10-2020	P	C	P	20	
ALP	ACE INTRO TO TYPING	03-11-2013	04-18-2013	P	C	P	20	
ALP	ACE INTRO TO TYPING	09-06-2011	10-20-2011	P	C	P	20	
ALP	SWISSEBALL FITNESS MON 12:20PM	09-30-2004	12-30-2004	P	C	P	13	
NYM M	EXERCISE PROGRAM	10-10-2003	01-12-2004	P	C	P	75	
OTV DCU	HOLDOVER ORIENTATION PROGRAM	03-16-1992	03-25-1992	P	C	P	60	

G0000

TRANSACTION SUCCESSFULLY COMPLETED

PP37

Page 1 of 1

ALPGH 531.01 * INMATE HISTORY * 04-15-2021
PAGE 001 OF 001 * PT OTHER * 14:37:08

REG NO.: 39065-053 NAME....: DAIDONE, LOUISCATEGORY: PTO FUNCTION: DIS FORMAT:

FCL	ASSIGNMENT DESCRIPTION	START DATE/TIME	STOP DATE/TIME
ALP	ARTH FND P ARTHRITIS FOUNDATION WALK PART	04-04-2021 1253	CURRENT
ALP	BRN HLTH C BRAIN HEALTH AS YOU AGE COMP	03-27-2021 0754	03-27-2021 0754
ALP	BRN HLTH P BRAIN HEALTH AS YOU AGE PART	03-06-2021 0952	03-27-2021 0754
ALP	MON SM O C MONEY SMART OLDER POP COMP	09-22-2020 1454	09-22-2020 1454

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

EXHIBIT C

ALPEH * INMATE DISCIPLINE DATA * 01-27-2020
PAGE 001 OF 001 * CHRONOLOGICAL DISCIPLINARY RECORD * 13:29:50

REGISTER NO: 39065-053 NAME...: DAIDONE, LOUIS

FUNCTION...: DIS FORMAT: CHRONO LIMIT TO ☐ MOS PRIOR TO 01-27-2020

RSP OF: ALP-ALLENWOOD USP

G5463 NO ENTRIES EXIST IN CHRONOLOGICAL LOG FOR TIME PERIOD REQUESTED

EXHIBIT D

**Medical record omitted pursuant to Section 21.4 of the
SDNY Elec. Case Filing Rules & Instructions**

EXHIBIT E

To the Honorable Judge Berman,

My name is Theresa Daidone, and I am the wife of 50 years to Mr. Louis Daidone, who was before you for sentencing in 2004. He's been incarcerated since 2003, and to say that my heart has been incomplete for almost 20 years is an understatement. I feel like my entire life has been waiting for Lou to come home. First as he was the star quarterback at Indiana State University, then as a Sergeant for four years in the Airforce during the Vietnam War, and now during his incarceration. But I will be honest, waiting all those other times was a breeze compared to his current sentence.

During this time my health has drastically deteriorated. I am 75 years old with Lupus, Fibromyalgia, Rheumatoid Arthritis and severe Depression. I am currently awaiting a back surgery, but because my body won't be able to fight off Covid, my doctor is prohibiting me from going into the hospital. I can no longer walk, my kidneys are starting to fail from the Lupus, and the amount of medication I take is obscene. I have accepted the fact that my time on this earth is extremely limited.

What I have not accepted is that I will be leaving this earth alone, without ever being able to see the love of my life again. I'm not sure if you are married, but if so, please put yourself in my shoes for just a second. Do you know how hard this is to accept?. He has the gentlest heart and even from there does his best to take care of me and my health as best he can. He has served more time than anyone else on the original case. I don't comprehend the laws that well, but from what my daughter explained to me was that you had no choice but to impose a life sentence back in 2004. She also explained that since then the laws have changed, and you can now resentence him to an actual number like 20 or 25 years.

I am begging you to please grant me my last wish. Please at least let me die in peace knowing that my husband is home where he belongs. I would give anything to just spend a little time with him before I leave this earth. I would rest much easier knowing that he was there with me. I would also rest much easier knowing that he had the opportunity to live just one day at home with his grandchildren. They have been my only reason for living these past 20 years. And I would hope that my husband would be able to experience their love for the little time that he has left as well. Thank you for taking time to read this. I wish you many blessings, and I pray that you find it in your heart to bestow a blessing on to me and my family as well.

Sincerely,

Theresa Daidone

Lori Micali


Staten Island, New York 10306

To the Honorable Judge Berman,

I'm sure you don't remember me, but I am the youngest daughter of Mr. Louis Daidone who sat in your courtroom every day during his trial back in 2004. I watched one cooperating witness, who claimed on the stand that he was my father's good friend, get questioned on where my father lived with his family and his response was a completely different borough. I also watched another cooperating witness get questioned if my father was in the courtroom that day and to please point him out, while he pointed out one of the lawyers. But the past is the past and there is nothing I can do to change it. What I can do however, is tell you about the Mr. Louis Daidone that you never had the pleasuring of meeting, and the man he is today.

My father was and always will be a true family man, nothing and no one comes before us. During my life he **NEVER** missed a softball game, a cheerleading match, a dance performance, a father/daughter dance, or anything else for that matter. What he did miss was walking me down the aisle on my wedding day, being there for the birth of my two beautiful daughters and watching me become a wife and mother with the family first values that he instilled in me.

Despite my father's current situation, he has somehow managed to establish a bond with my girls as if he was living in the same house with them. The way they adore him, and speak of him, and attach themselves to him on visits is astonishing to see. He doesn't miss speaking to them on a birthday, holiday, graduation, or just a basic weekend soccer or flag football game. He calls to tell them how proud he is of them, roots them on before games, gives them tips on what to do and how to do it, and then calls back to get the scores. No matter how far away he is, he doesn't let anything get in the way of being a grandpa.

Unfortunately, due to covid we haven't been able to visit my dad in almost two years. This has taken a major toll on all of us, especially his grandchildren. They were used to seeing him once a month and long to be able to hug him again. Mentally this is a triple struggle for me, not only do I feel the pain of my girls and my own, but I also feel the pain of my poor mother who lost her

childhood sweetheart. My mom's health has severely decreased since my father's incarceration. She now has an autoimmune disease called lupus, and suffers from Depression, Fibromyalgia, & Rheumatoid Arthritis. She can no longer walk more than a few steps without assistance, led alone travel hours in a car to go visit. To say our situation is taking a toll on our family is an understatement. My father is glue that holds us all together. I know if he were home, he would be at every game, help any way he can with my busy life schedule with my girls & my mom, and take my mom to every doctor appointment. Do you know that he even writes to my mother's doctors from in there to ensure that she gets the best care possible and ensure he is always informed on her health status?

He will be away 19 years in March. I know at the time there was a mandatory minimum sentence for you to impose, but at this point that is no longer the case. I beg of you, please take into consideration the well-being of our family before it's too late. Afford my sick mother the comfort of leaving this earth with the love of her life. Afford my father who is also suffering from heart problems and numerous other health issues, the opportunity to come home and live out whatever life he has left with his family. Afford his grandchildren the normalcy of experiencing their special bond in real life as opposed to a phone call. And afford me the security and help I need to do the job of all the hats he wore when he was home. He has served more time than anyone else and deserves a last chance at life with his family.

Sincerely,

Lori Miceli

To the Honorable Judge Berman:

Thank you for this opportunity to be heard, I truly appreciate it. My name is Kimberly Romania and I am the eldest daughter of Louis Daidone. As a child & young adult I was always intrigued by the law and the criminal justice system. I graduated from Iona college with a criminal justice degree & went onto complete my graduate degree in Adelphi University. I once intended to go to law school, and work towards a possible seat on the bench, because I respect and admire the law.

Though my heart was broken 18yrs ago, I still have faith in humanity and that is why I am writing to you today. My father is the greatest man I've ever known (I'm sure you hear that all the time) but I can assure you that in this case, it is true! He has sacrificed his entire life for me and my family. He is kind, generous and loving. He is intelligent, articulate and selfless. He has always put his family first and loved us beyond measure. The relationship and bond he has with my children is priceless. They adore him, respect him and long for the day when they can hug him outside of the facility. Although he has not been able to attend any of their many milestones, not a single holiday, birthday, graduation, dance competition, award ceremony etc. goes by without a phone call or letter from him. Over the years I've watched him sacrifice his own life and all his freedoms for us, without complaint. Being a grandfather or as they call him "Pepa" has proven to be his biggest joy and the most important role in his life. He has taught my children that loyalty, honesty and family values are all that matter. I can't even imagine how painful it is to miss every single special moment that a father, grandfather and husband should have. When I think about what he endures inside that dreadful place I want to scream and cry, yet he handles himself with dignity, self-respect, honor and remorse. Although his demeanor with us has always been that of a happy healthy youngster, he is turning 76yrs old this year. His health is deteriorating, and I worry about him every single day. But as much as I worry about him, I worry about my mother even more. Her health declines every day. She has been stricken with Lupus, fibromyalgia, severe arthritis and a whole host of other ailments too many to mention. She can barely walk anymore and needs spinal surgery. All of this compiled with her depression has made her life unbearable. Just like my dad, she never complains but her happiness came to an end the day they took my father away. They have been together their entire lives. She was the captain of their high school cheer team & cheered for my dad who was captain of their high school football team. Their love is like no other I've ever known and being apart for the last 19 years has been nothing short of excruciating. I know my mom has very little time left on this earth and her biggest fear is dying while my father is away. It's a fear that

cripples her every day. Watching them grow old separately has been heartbreaking but fearing that they will die separately is a pain that I cannot even put into words.

My father may not be perfect in the eyes of the law, but he has certainly paid his debt to society. He has been a model inmate and serves his time like a gentleman. I remember learning that the four main purposes of prisons were retribution, incapacitation, deterrence and rehabilitation. I can assure you that in my father's case, all four purposes have been met! Society is strengthened when justice is tempered with mercy, I am begging you to show us mercy and please grant him a compassionate release. My family needs him home and honestly, I don't know how much longer we will be able to survive without him. Thank you so much for your time and consideration.

Sincerely,
Kim Romania

To the Honorable Judge Berman,

Your honor, my name is A [REDACTED] L [REDACTED], and I am the eldest grandchild of Louis Daidone. I am extremely grateful to be given the opportunity to write to you in regard to my grandfather, one of the most amazing men on this earth. Although I am one of four, I was the only one who was born while my grandpa was still home & I was also named after him. These are two things that are very special to me!!! Unfortunately, since his sentence began in 2003, I do not remember the little time in my life when he was physically present.

From as far back as I can remember, we would go to visit Pepa (as we call him) at “work”. Of course, my family was looking out for me by telling me that he was working, but when I was old enough to learn the truth about where he was, I was devastated. I still do not know all of the details that led to his incarceration, but it breaks my heart to know that the person I emulate, respect, and love so much is serving such a long and harsh sentence.

My grandfather is someone of great compassion, patience, respect, thoughtfulness, and loyalty. He is the glue that holds my family together, which is astonishing to me because he has been away for so many years. Over time, it has gotten more and more difficult to be apart from him, but he never complains or wants us to worry. He is also more appreciative of our conversations because, although they are so limited, they mean so much. Whenever he calls, and I ask "How are You?" He always replies with "As long as you guys are okay, I'm okay." I often wonder how he does it. All I can think of is how someone in his situation can be so

continuously positive. I am a third-year college student with a 4.0 GPA and I do not think I will ever understand it! I find it amazing how he manages to have the greatest relationship with all of us, despite the distance and circumstances. My grandfather was always someone I wanted to make proud. Nights before visits, I would struggle to fall asleep because I would be so excited to see him again and share everything he missed. I have not seen him in over a year due to the COVID-19 pandemic, but when I speak to him, he always has the same positivity and optimism and love. Our bond only gets stronger over time. However, I can't even begin to imagine the pain and sadness he endures every single day that he's not able to be with the ones he loves.

My grandfather's absence has had such a large impact on everyone from my 7-year-old cousin to my 75-year-old grandma, whose condition is only decreasing as time goes on. My grandma is my best friend, and beside the Lupus, rheumatoid arthritis, and other health conditions she suffers from, I am constantly worried that the depression from being without my grandfather will be the thing that stops her from being able to continue living her life. Me, my brother, and my younger cousins are what keep her going and as time goes on, I have noticed that we can't even get her out of bed anymore. She can't walk, she has no motivation, and she is in so much physical and emotional pain. It sickens me to watch her go through this and as she looks to surgery to solve the problem, I know that is not the answer. He is. My grandfather needs to come home before it's too late. My family is going through such a struggle and we need him. My family and I hope that one day my grandfather will be able to come back home where he belongs. We set a space

for him at dinner and pray for him every night. We do not want to keep going on without him. I do not want my grandfather and I to have a relationship which is constituted by phone calls. I have told him enough over the phone. "Pepa, I got into high school!" "Pepa I got into college." "Pepa, I got my drivers license." I fear that one day it will be, "Pepa I am getting married." I can't imagine another incomplete milestone. Worse than that, I don't think our family would survive if something happens to my grandma, while my grandpa is there and not home with us. He is the missing piece to our family, and we are incomplete without him. Please show mercy on my grandpa who has been punished for long enough. I am pleading with you to show compassion to a man that truly deserves it. We need your help, please grant him a compassionate release for the little time my grandparents have left. Thank you so much for your time.

Sincerely,

A [REDACTED] L [REDACTED] R [REDACTED]

To the Honorable Judge Berman,

My name is L [REDACTED] M [REDACTED] and I am the 13 year old granddaughter of Mr. Louis Daidone. Unfortunately, I was never lucky enough to have my grandfather (Pepar) home, as I was born in 2007 and he started his sentence in 2003. But I am fortunate enough to be loved by such an unbelievable man. I know many kids my age that don't have the relationships with their grandfathers like I do with mine, and they are lucky enough to be home together. That's says a lot for who my grandfather is as a person.

In the beginning I never knew where he was, or why he wasn't able to come home. My family always did their best to shield me from knowing the truth not to upset me, but as I got older, I started to ask questions. My mom told me that she was going to tell me, and my grandfather said no. He said you bring her up here and I will explain everything to her myself. I will never forget that visit as long as I live. Although I was heartbroken to think of such a loving & caring good man being in "jail", I was amazed at how he managed to take responsibility and explain everything to me himself. I'm sure it wasn't an easy task, but he did it so gently and managed to make me feel better assuring me that he was fine. I still wonder daily if he really is fine, because I can't imagine how he could be. He is suffering in there alone without his family. He had knee surgery and open-heart surgery alone with no one to care for him. When his heart stopped, and he was rushed to the hospital all I could think about was how he didn't have anyone there who truly cared about him like we do. He doesn't deserve that. I don't ever express my feelings to my mom or grandmother because I don't want to hurt them anymore than they already are. I watch them suffer every day deep down inside, but they always do what it takes to put a smile on their face and make me feel like everything is ok. I know it isn't. I know my family struggles financially to put a roof over my head, send me to good schools, and allow me to play sports. I know my mom does her best to always fill the void of her father missing out on all the important events in our lives, but I'd be lying if I said I didn't feel it so that's why I'm expressing my feelings to you now.

My grandfather is beyond amazing and goes out of his way to always make me feel special. I'm going to attach a short letter he wrote me last Christmas just so u can see exactly what I mean. Please Judge, please find it in your heart to send my grandfather back home to me. This has been what I wished for every birthday since the day I found out. He's been in way longer than I am even alive. At least give him one more chance at life

again. He will be 76 years old soon. There aren't too many more years left to be able to grant us this opportunity. I know if he ever had the chance to be home, he'd never do anything but spend his days making this up to us. He always tells me "If I was home, I'd be at every soccer game and every flag football game, and I'd be the one cheering the loudest." I know that's true!!! Please Judge Berman send my grandfather home where he truly belongs, with his family who loves and misses him beyond measure.

Sincerely,

L [REDACTED] M [REDACTED]

Hi [REDACTED]

12-30-20

I just received your letter and it truly brought tears to my eyes. You write so beautifully.

I hope Santa was good to you and brought you everything you wanted.

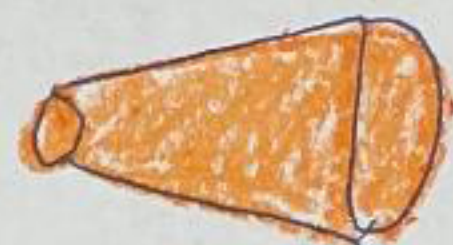
Mommy told me that despite not being able to attend school regularly, you still made first honors. Congratulations!

I am so proud of you. Keep up the good work and never forget how much I love you - - - -



Peeps

Please send my Paper home from work.



I miss him soooooo much and want to
play Uno with him. I also want him to come to watch me
cheer and play soccer. I'm very good. Love,

Love,

R

M

To the honorable Judge Burman

Hello Your Honor, my name is S [REDACTED] and I am the only grandson of Louis Daidone. Thank you for allowing us to write to you, but honestly, I don't even know where to begin. Ever since I was young, I have had a deep admiration of my grandfather. He is genuine, respectful, caring, selfless, loyal, brave and so many other amazing things. There aren't enough words to explain how much I love and miss him. He has been away for my whole life, and I would do anything to have him home to do things like go to dinner, football games, come to my competitions and cheer me on stage, and everything else to make up for all these years of lost time.

The thing my grandfather considers most important is our family. He always tells me, "As long as everybody is okay over there, I'm okay over here." Even with just one phone call, I know that he's doing alright and that makes me happy but still devastated that I can't give him a huge hug and have him be home with us.

As I grow older, I feel more and more responsibility to my family. Being the only male grandchild, I promised my grandpa that I would take care of everybody, especially my grandma, who misses him more than anything in this whole world. She is very sick with Lupus and seems to be getting sicker every day. She hasn't been able to walk lately, and it scares me to death. I try to do things like carry her bags and help her up the stairs, basic things that I know my grandpa would do to help her if he was home.

I always try to act like my grandpa would want me to, with respect and kindness. I always want to make him proud and do things the way he would do them. He is the type of gentleman who would give the shirt off his back to someone in need. He always took care of everyone when he was home, and he has continued to do so, even 4 hours away,

My grandfather is the greatest man I know, and we have a special bond. A lot of people say that I look and act just like him, which is the best compliment anyone could ever give me. I hope one day to have such a strong capacity for loyalty and love like he does.

One thing I know is that my grandfather deserves to be home, with his family, catching up on all the things he has missed out on and enjoying the people who love him so much. I pray that he can be here to experience the remaining milestones in my life and those of my older sister and younger cousins. There is nothing more I would like to see than my grandfather back home where he can laugh, smile, and enjoy his family and take care of my grandma. She isn't going to survive much longer without him because she is just so sick and sad from missing him so much. He will fill the void that has grown and continues to grow in all our hearts. Please help us and send him home to us.

Thank you for listening, I truly appreciate it.

S [REDACTED] R [REDACTED]